

SUBCOMMITTEE NO. 2

Agenda

Alan Lowenthal, Chair
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Monday, March 5, 2007
2:30 p.m.
Room 112

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Resources—Environmental Protection—Energy

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Overview

1. LAO: Resources and Environmental Protection Budget Overview

- Overview of Resources and Environmental Protection Expenditures in Context of Overall Budget (10 min)

2. Secretary for Resources – Mike Chrisman

- Overview of Resources Agency Budget (15 min)

0540 Secretary for Resources

Governor's Budget. The Governor's Budget proposes \$57 million to support the Secretary for Resources in 2007-08. This is nearly 63 percent less than estimated expenditures in the current year due mainly to a reduction in the Proposition 50 local assistance bond funds available for appropriation.

Summary of Expenditures				
<i>(dollars in thousands)</i>	2006-07	2007-08	\$ Change	% Change
Type of Expenditure				
Administration	\$ 165,272	\$ 73,253	-\$92,019	-55.7
Total	\$ 165,272	\$ 73,253	-\$92,019	-55.7
Funding Source				
General Fund	\$ 5,909	\$ 6,005	\$ 96	1.6
Special Funds	3,478	3,316	-162	-4.7
Bond Funds	148,323	47,714	-100,609	-67.8
<i>Budget Act Total</i>	<i>157,710</i>	<i>57,035</i>	<i>-100,675</i>	<i>-63.8</i>
Federal Trust Fund	5,004	199	-4,805	-96.0
Reimbursements	2,558	16,019	13,461	526.2
Total	\$ 165,272	\$ 73,253	-\$92,019	-55.7

Vote-Only Items

1. California River Parkways

Background. Proposition 50 (Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002) provided \$100 million for river parkway projects. The local assistance grant program was established with publicly developed grant guidelines. These grant funds are awarded for the acquisition of land for river parkways or for the restoration, protection, and development of river parkways. River parkways provide passive recreational opportunities, such as trails for walking or bicycling, along rivers and streams. This request is for the fourth year of the grant program.

Governor's Budget. The Governor's Budget proposes \$20.5 million for local assistance grants and \$54,000 for one position, all from Proposition 50 bond funds.

The Governor's Budget also proposes the following budget bill language:

- 1) The funds appropriated in this item for purposes of Section 79541 of the Water Code shall be available for encumbrance until June 30, 2010, for purposes of support, local assistance, or capital outlay.
- 2) The funds received by other state agencies from this item in accordance with Section 79541 of the Water Code are exempt from the reporting requirements of Section 28.50.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

2. Reappropriation: Local Assistance Bond Funds

Background. The Resources Agency administers local assistance grants from several bond-funded programs. This request deals with the following programs:

- Proposition 12 – Sierra Nevada Cascade, Los Angeles River Parkways, San Gabriel and Lower Los Angeles River Grants and specified grants.
- Proposition 13 – River Protection and River Parkways.
- Proposition 40 – River Parkways and Sierra Nevada Cascade.

The grant recipients were unable to liquidate the bond funds during the allowed time-frame due to a variety of factors including: time to complete environmental documentation, inclement weather delaying construction, difficulty securing project site, and complex negotiations for acquisition.

The unexpended bond funds are:

- Proposition 12: \$18,961,807 out of \$43 million
- Proposition 13: \$4,537,551 out of \$30 million
- Proposition 40: \$28,226,290 out of \$46 million

Governor's Budget. The Governor's Budget proposes \$108,000 in FY 2007/08 and \$200,000 in FY 2008/09 for staffing, and reappropriation of the following budget items:

Item 0540-101-0005, Budget Act of 2000 (Chapter 52, Statutes of 2000)

Item 0540-101-6015, Budget Act of 2002 (Chapter 379, Statutes of 2002)

Item 0540-101-6029, Budget Act of 2002 (Chapter 379, Statutes of 2002)

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

Items for Discussion

3. State Conservation Easement Database

Background. An easement is a change to a land title to restrict the use of that land to a specified purpose, even if the owner of the land changes. Examples of easements include agricultural easements that require land be used only for farming, or oak woodlands easements that require land be left as untouched oak woodlands. The easement is protected by the California State constitution, and cannot be removed even if the land is sold to a new owner. The state has paid landowners of strategically important habitat, grazing, or agricultural land to place easements on their land, but these easements have been tracked in a single database.

SB 1360 (Chapter 351, Statutes of 2006) requires the Resources Agency to establish an Internet-accessible central public registry of all conservation easements held or acquired by the state, or purchased with state grant funds provided by any agency, department, or division of the state on or after January 1, 2006. Many county recorders are currently not providing access to the conservation easement indices in their counties. The Resources Agency does not currently know the number of conservation easements in the state. The Resources Agency is proposing to use staff already under contract through an interagency agreement with the UC Davis, CalSpace program to complete the work.

Resources Agency estimates that the maintenance cost for this web-based system will be very low since local agencies will input their own easement purchases. The Resources Agency provided staff with the cost estimate of \$1,000 annual maintenance cost.

Currently, the Department of Conservation and the Wildlife Conservation Board track the easements they purchase. The Department of Conservation has an extensive database of easements they purchased with GIS mapping capability.

Governor's Budget. The Governor's Budget proposes \$50,000 in Proposition 40 (California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Fund) and Proposition 50 (Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002) bond funds for the development of a conservation easement database.

Questions.

1. Will this database be able to draw data from the already existing Department of Conservation easement database?

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal with the following budget bill language:

The funds in this item are for a state conservation easement database. The Resources Agency will develop the system using software that can communicate with the Department of Conservation easement database software.

4. San Joaquin River Restoration

Background. In 1988, the Natural Resources Defense Council (NRDC) sued the Bureau of Reclamation and the Friant Water Users Authority (FWUA) over the fish population levels in the river. In August of 2006, NRDC and FWUA entered into a settlement agreement, the goal of which is to “restore and maintain fish populations” in the San Joaquin River below the Friant Dam. The settlement specifies actions that will be taken over the next 20 years to restore the San Joaquin River. The intent is to restore approximately 150 miles of river from the Friant Dam to the confluence with the Merced River.

Under the agreement, the federal government will provide funds to restore the river, while FWUA agreed to actions that will increase flows in the river. The Resources Agency estimates that costs for restoring the San Joaquin River will range from \$350 to \$800 million over 20 years. While the state is not a party to the lawsuit, The Department of Water Resources, the Resources Agency, and the California Environmental Protection Agency have entered into a memorandum of understanding with the settling parties regarding the state’s role in the restoration.

Proposition 84 (Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006) provides \$100 million to the Resources Agency for San Joaquin River restoration.

Governor’s Budget. The Governor’s Budget proposes \$13,869,000 in Proposition 84 bond funds for San Joaquin River restoration.

LAO Analysis. The LAO points out that the Legislature has never been given an opportunity to evaluate the state’s appropriate role in the restoration. The restoration effort is likely to require significant state contributions over the next several decades. The LAO thinks that if the administration wishes to move forward with restoration activities, it should sponsor a policy bill to ratify the memorandum of understanding. This would allow the Legislature to fully evaluate the commitment the administration is proposing, as well as allowing the Legislature to determine the overall parameters of state involvement in the restoration.

In addition, the LAO notes that the state is not directly responsible for the condition of the San Joaquin River that led to the lawsuit. Under the “polluter pays” principle, the responsible parties – in this case the federal government and the water users – should bear the primary responsibility for the restoration of the river. Currently, the funding contribution of the responsible parties is subject to significant uncertainty. The settlement agreement, for example, provides that any party to the lawsuit can void the

settlement if federal legislation to implement the settlement is not enacted by December 31, 2006. Such legislation has not yet been passed. The LAO advises against the state taking actions that potentially diminish the legal obligations of the responsible parties to restore the damage they have caused.

Questions.

1. Why should the state place funds into this project prior to the federal government providing funds for restoration?
2. If the state begins restoration efforts without financial contribution from other parties, is it possible that the state will be the sole contributor of funds to the restoration effort?

Staff Recommendation. Due to direction from the Budget Chair to hold all November 2006 voter approved bond funds open until policy committees hold oversight hearings, staff recommends the Subcommittee hold this item open.

5. Proposition 84 Statewide Bond Costs

Background. California voters in November 2006 passed Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006, which provides \$5.388 billion in general obligation bonds for environmental and resource purposes.

Management of general obligation bonds requires interim financing, funds for the sale of bonds, and other expenditures associated with the management of bonds. Through management of past general obligation bonds, the Resources Agency has determined that 3.5 percent is the proper amount to set aside for bond management purposes. This amount is on top of the 5 percent for project administration.

Governor's Budget. The Governor's Budget proposes \$1,141,000 in Proposition 84 bond funds for 8.4 positions. The Governor's Budget proposes these funds and positions to be on-going.

Staff Comments. These positions are intended to manage the Proposition 84 (Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006) general obligation bond sales on behalf of the Resources Agency.

Staff Recommendation. Due to direction from the Budget Chair to hold all November 2006 voter approved bond funds open until policy committees hold oversight hearings, staff recommends the Subcommittee hold this item open.

6. Bond Oversight – Informational Issue

Background. In November 2006 the voters passed Proposition 1E and Proposition 84, which provide a significant amount in general obligation bond funds for resources related uses, such as flood protection, water quality, and parks. The Legislature may wish to examine how the Secretary for Resources is coordinating bond fund projects and the oversight of bond funds use.

Oversight of Bonds. Secretary for Resources will provide an update of what the Resources Agency is doing to increase transparency of bond funds spent.

Questions.

- What is the Secretary for Resources doing to increase transparency of bond expenditures?
- What is the Secretary for Resources doing to coordinate the bond funded projects of the various departments?
- Why is the website for the bond tracking paid for out of the 3.5% for bond financing costs rather than the 5% for program administration?

7. Overdue Reports – Informational Issue

Background. The Legislature, as part of the budget process or in legislation, at times will request a specific report from a department in order to gain information to make sound funding decisions on programs. The various departments within the Resources Agency currently have 14 outstanding reports that were due to the Legislature on January 10, 2007 or earlier.

Staff Recommendation. Staff recommends the Subcommittee not fund projects that have an overdue report, until that report is submitted to the Legislature.

CALFED Oversight

Background on CALFED

What is the Bay-Delta? The San Francisco Bay/Sacramento-San Joaquin Delta system consists of numerous tributaries, sloughs, islands, and an estuary located in the San Francisco Bay region. The Bay-Delta system covers over 738,000 acres in five counties. The region supports over 750 plant and animal species. The Bay-Delta supplies the drinking water to two-thirds of Californians and the irrigation water for over 7 million acres of highly productive agricultural land.

CALFED History. Pursuant to a federal-state accord signed in 1994, CALFED was an administratively created consortium of 25 state and federal agencies that have regulatory authority over water and resource management in the Bay-Delta region. The CALFED was established to resolve ecosystem quality, water quality, water supply reliability, and levee and channel integrity of the Bay-Delta system. This joint state and federal effort intends to enact comprehensive, consensus-based programs and facilities to mutually address long-standing Bay-Delta water management problems. The program is designed to ensure the state's water is prudently managed to protect its natural resources, municipalities and industries, agriculture, and overall economy.

For five years, CALFED planned direction and implementation strategies. These plans came to be known as the 2000 Record of Decision (ROD). The ROD represents the approval of the lead CALFED agencies of the final environmental review documents for the CALFED plan. Among other things, the ROD lays out the roles and responsibilities of each participating agency; sets goals for the program and types of projects to be pursued; and includes an estimate of the program's costs for its first seven years. The CALFED program implementation was anticipated to last 30 years.

Chapter 812, Statutes of 2002 (SB 1653, Costa), created a new state agency in the Resources Agency – the California Bay-Delta Authority (CBDA) – to oversee the overall CALFED program, as well as to directly implement the CALFED science program. Chapter 812 assigned responsibility for implementing the program's other elements (such as water quality, ecosystem restoration, and water storage) among a number of other state agencies. While the CBDA reviewed and approved the annual work plans and expenditure plans of the implementing agencies, Chapter 812 explicitly provided that nothing in the legislation “limits or interferes with the final decision making authority of the implementing agencies”.

Independent Reviews Critical of CALFED. During 2005 and 2006 four independent reviews were conducted of CALFED. These reviews found common agreement that the CALFED governance structure was not working well, state priorities for CALFED were not clear, and meaningful performance measures for the program were lacking. These independent reviews were:

- Little Hoover Commission – Review of CALFED governance.

- Department of Finance, Office of State Audits and Evaluations – Fiscal review of CALFED expenditures since inception and CALFED’s expenditure tracking mechanisms.
- Department of Finance, Performance Review Unit – Program review of the implementation status of CALFED programs.
- The KPMG (a private consultancy firm) – Interview and survey of CALFED stakeholders.

All of these independent reviews found that:

- The CALFED governance structure was not working well and was impeding the program’s effectiveness. Responsibilities among CALFED implementing agencies were not clear and no one was in charge.
- The state’s priorities for CALFED were not clear.
- Meaningful performance measures to track the program’s progress and hold the program accountable for outcomes were lacking.

CALFED Financing. The Record of Decision (ROD) envisioned that CALFED would be financed over time by roughly equal contributions of federal, state, and local funding. However, the state has consistently been the major funding source for the program during its first seven years, providing about \$2.3 billion, or 50 percent, of funding. The majority of state funds for CALFED have been taxpayer supported “general purpose” funds, namely monies from the General Fund and bond funds that must ultimately be repaid with General Fund.

The ROD also endorsed the concept of beneficiary pays. However, no user fees have supported the CALFED program. In January 2005, CALFED submitted to the Legislature a long-term financing plan that included funding from user fees, but no specific proposals for these new fees or how they would actually be implemented. The 2005 long-term financing plan was not considered viable or complete by the Legislature since it included assumptions of high levels of federal funding that had never previously been achieved and unspecified sources of new state funds.

Currently, CALFED does not have a long term financing plan. In spite of Legislative direction, CALFED has made no progress in implementing the “beneficiary pays” principle in funding its programs. Without having the beneficiaries of a program paying for the work conducted, there is little guarantee that the beneficiaries will insist on cost-effective and, in the long run, beneficial work.

CALFED Expenditures - State Funds Only*(in millions)*

Expenditures by Program Element	2005-06	2006-07	2007-08
Ecosystem Restoration	\$162.1	\$124.6	\$127.0
Environmental Water Account	9.0	74.6	2.8
Water Use Efficiency	28.6	59.4	52.1
Delta Vision	-	1.4	1.9
Watershed Management	11.8	17.7	2.4
Drinking Water Quality	1.0	20.8	122.6
Levees	19.2	18.9	64.0
Water Storage	8.8	10.3	9.8
Water Conveyance	34.4	91.1	58.7
Science	34.7	39.3	24.1
Water Supply Reliability	6.9	9.4	-
CALFED Program Management	7.5	8.1	8.2
Total	\$324.0	\$475.6	\$473.6

Expenditures by Department	2005-06	2006-07	2007-08
Water Resources	\$125.0	\$338.1	\$257.4
State Water Resources Control Board	1.6	10.8	0.7
Secretary for Resources	-	35.8	14.2
Fish and Game	67.2	84.4	109.6
Conservation	3.3	0.3	1.5
Forestry and Fire Protection	0.2	1.7	1.6
San Francisco Bay Conservation	0.1	0.1	0.1
Health Services (Public Health)	0.1	4.4	88.7
California Bay-Delta Authority	126.5	-	-
Totals	\$324.0	\$475.6	\$473.8

Expenditures by Fund Source	2005-06	2006-07	2007-08
Proposition 50	\$232.7	\$276.5	\$222.6
Proposition 84	-	-	148.3
Proposition 13	18.9	107.1	32.5
Proposition 204	29.0	18.3	1.7
General Fund	11.5	26.7	16.6
State Water Project Funds	29.7	43.9	49.6
Other State Funds	2.2	3.1	2.3
Totals	\$324.0	\$475.6	\$473.6

1. LAO: Overview of CALFED Reorganization and Budget

- Mark Newton from the Legislative Analyst's Office (15 min)

2. CALFED: Overview of Actions since Reorganization

- Director Joe Grindstaff from CALFED (10 min)
 - 100-Year Delta Vision
 - Stage II Strategic Plan

Questions.

- How is planning coordinated differently now from before the reorganization?
- How are these plans getting the state closer to a beneficiary pays financing?
- How are CALFED programs prioritized differently now from before the reorganization?

1. CALFED Planning Positions

CALFED Reorganization. In 2006, the Legislature took action to address problems with CALFED's governance structure as identified in the various independent reviews. The Legislature approved a budget trailer bill and made number of adjustments to the CALFED budget. The main components of the reorganization are as follows:

- **California Bay-Delta Authority Defunded** – All CBDA positions (71 total) were transferred to the Secretary for Resources and five other CALFED implementing agencies, and CBDA was defunded. The board of CBDA continues to exist and staff support is provided through the Secretary for Resources.
- **Secretary for Resources in Charge and Accountable for Program Performance** – The Secretary for Resources became the main “point of accountability” for CALFED in overall program planning, performance, and tracking.
- **Forestry Department Services Administrative Support Function** – The California Department of Forestry and Fire Protection received the CALFED administrative support functions such as human resources, contracting, information technology, and accounting.
- **Implementing Agencies Do the Implementation** – Positions were transferred from the CBDA to the CALFED implementing agencies.

Planning Objectives. In April 2006 the Governor directed CALFED to work on:

- **100-Year Delta Vision.** The creation of this plan includes convening a panel of scientists to evaluate the latest information relative to the Delta. This information will be used to inform a larger public process to determine the 100-year vision for the Delta, including land use and transportation.
- **Voluntary Planning Agreement and Conservation Plan.** This proposal includes development Habitat Conservation Plans and Natural Communities Conservation Plans to address endangered species issues in the Delta. The Governor proposes first negotiating a voluntary planning agreement to identify which water users are interested in security coverage and which activities they want covered. This agreement is targeted for completion in 2007.

CALFED Strategic Vision Under Development. CALFED's Stage I will end December 2007 and CALFED is beginning planning preparations for Stage II. CALFED's planning effort for Stage II includes the 100-Year Delta Vision. The new strategic plan is expected to outline a revised strategy for implementing CALFED objectives. The Legislature should have a strong voice on whether or not the strategy laid out in the 100-Year Delta Vision is the direction California should move toward. Once progress reports and new plans have been received, the Legislature can better evaluate the effectiveness of the CALFED governance structure.

Cabinet Secretary Managing Programs. Historically, the office of a cabinet secretary has not played a large role in managing programs. The cabinet secretary job more typically involves providing leadership and directing long-term strategic planning and initiatives. The restructuring of CALFED in 2006 required the Secretary for Resources to take on significant program management responsibilities. The Legislature should evaluate the success of having a program of this magnitude under the direct management of the Secretary.

Delta Ecosystem in Continual Decline. The actions taken by CALFED toward the 2000 Record of Decision (ROD) goals have been called into question since the Bay-Delta ecosystem has continued to decline. Since the primary purpose of CALFED is to increase the health of the Bay-Delta ecosystem, the continual decline is problematic. In light of the declining health of the Bay-Delta, it is even more important that the programmatic goals and strategies for the next 10 years be effective, and that the Legislature have sufficient ability to review and comment upon those plans and program performance.

Legislative Oversight of the CALFED Program. In 2006, the Legislature moved the responsibilities for CALFED away from the Bay-Delta Authority to various Resource Agency departments. The Legislature may wish to follow up on the implementation of this oversight, planning, and program execution change. Specifically, the Legislature may wish to have CALFED report back on progress in the areas of governance, program and fiscal management, program priorities, implementation schedules, conservation plans, the 100-Year Delta Vision, and the near-term funding plan.

Staff Proposal. To ensure that the Legislature has proper oversight of the CALFED planning process and the proposed new direction for CALFED, staff recommends the Subcommittee make all CALFED planning positions in the Secretary for Resources office and the CALFED administrative positions in the California Department of Forestry and Fire Protection temporary two-year limited term positions. There are 36 CALFED positions in the Secretary for Resources office and 18 in the Department of Forestry and Fire Protection for a total of 54 positions. Making the planning positions temporary would encourage CALFED to complete plans on time. Since the Delta Vision will be completed December 2008, the Legislature will have 6 months to review those plans and reinstate positions as permanent if the Legislature approves of the CALFED plans.

Should the Legislature not approve of the CALFED plans for a proposed new direction for the Delta, the Legislature could create a new governance system to coordinate the state departments' work in the Delta.

Staff Recommendation. Staff recommends the Subcommittee direct staff to write trailer bill language denying authority for the 36 CALFED planning positions in the Secretary for Resources and for the 18 CALFED administrative positions in the California Department of Forestry and Fire Protection. Staff recommends the Subcommittee direct staff to write trailer bill language creating authority for two year limited term positions for 36 CALFED planning positions in the Secretary for Resources and for 18 CALFED administrative positions in the California Department of Forestry and Fire Protection.

CALFED Budget Proposals

1. CALFED Science Program Research Grants

Background. CALFED provides a science research grant for projects that provide scientific information related to water project operations, water quality, ecosystem restoration, and prevention and management of invasive species. The primary purpose of the CALFED Science Program is to implement programs and projects to articulate, test, refine, and improve the scientific understanding of all aspects of the Bay-Delta and its watershed areas. The Science Program aims to reduce the scientific uncertainties in the planning and implementation of CALFED Bay-Delta Program actions.

To date, the Science Program has awarded approximately \$16 million in research grants. The program will run out of eligible grant funds at the end of the 2006-07 Fiscal Year. The funding requested in this budget proposal would go toward science projects identified in the first year as necessary to achieving the CALFED Record of Decision goals.

To award the science grants, the CALFED Science Program and the CALFED Agencies first determine the critical scientific information needs to help guide management decisions. These needs are then used to develop the Proposal Solicitation Package. The proposals undergo a technical review by two separate committees. Once the grant has been approved, the Science Program staff works with the researcher and contract staff to develop a contract that includes information on the statement of work, schedules, deliverables, presentations, and final products.

Governor's Budget. The Governor's Budget proposes \$10,552,000 for Proposal Solicitation Package science research grants through the Secretary for Resources budget. The funds would come from two sources:

- \$8 million in Reimbursement Authority from the Department of Water Resources Proposition 84 bond funds.
- \$2.552 million from Proposition 50 (Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002) bond funds.

Staff Recommendation. Due to direction from the Budget Chair to hold all November 2006 voter approved bond funds open until policy committees hold oversight hearings, staff recommends the Subcommittee hold this item open.

2. CALFED Supplemental Programmatic Analysis

Background. CALFED has been focusing on through-Delta water conveyance for the last ten years. CALFED intends to utilize the requested resources to establish and

facilitate analysis of alternatives to through-Delta water conveyance, such as the peripheral canal.

Governor's Budget. The Governor's Budget proposes \$5,456,000 in reimbursements (\$456,000 on-going) from Department of Water Resources Proposition 84 bond funds to fund four limited-term positions and to conduct analysis and hydrologic modeling for alternatives to through-Delta water conveyance. The funds would be used for:

- \$5 million one time funding for contracts
- \$456,000 in on-going funding for four positions

The requested staff would manage and direct private consultants and coordinate with staff from various CALFED agencies in conducting analysis.

Staff Recommendation. Due to direction from the Budget Chair to hold all November 2006 voter approved bond funds open until policy committees hold oversight hearings, staff recommends the Subcommittee hold this item open.

3. CDF CALFED Bay-Delta Program Component

Background. In 2006, the California Department of Forestry and Fire Protection entered into a three year interagency agreement with the Resources Agency to provide accounting, personnel transaction, and examination services for the CALFED Bay-Delta Program. The agreement is effective until June 30, 2009.

Governor's Budget. The Governor's Budget proposes \$182,823 in reimbursement authority and 3 positions for the California Department of Forestry and Fire Protection to provide accounting, personnel transaction, and examination services for the CALFED Bay-Delta Program. The reimbursement authority would be from General Fund through the Resources Agency. The funds would be appropriated for three years at \$183,000 a year.

Staff Recommendation. Staff recommends the Subcommittee approve the proposal with two years of funding to be consistent with prior recommendation to make CALFED planning positions temporary two-year positions.

4. Laboratory Capacity Increase for Pelagic Organism Decline Investigations

Background. Pelagic organisms are fish that live in the water column. Four pelagic organisms, such as the Delta Smelt, are considered threatened in the Bay-Delta estuary. Currently, the Bay-Delta is experiencing rapid Pelagic Organism Decline (POD). The

Department of Fish and Game (DFG) is investigating the causes of POD in the Bay-Delta.

CALFED has created a POD Management Team to develop and understand the structure and functioning of the Bay-Delta ecosystem as it relates to the decline of four pelagic fish species. The POD Management Team, in a 2005 report, synthesized data into known and still needed categories and set about to create a work plan for filling information gaps. DFG is part of the POD Management Team.

To investigate the Bay-Delta POD, DFG is collecting a large number of samples for analysis. These samples include water analysis, fish gut content analysis, and zooplankton identification. Many of these sample tests are time consuming. The large number of water samples taken from the Bay-Delta has resulted in an estimated laboratory backlog of one year. Without timely analysis of samples scientific information needed to formulate policies to address POD will be delayed.

During the last four years, DFG has lost three full-time Senior Laboratory Assistant positions due to difficulty in filling vacant positions. DFG was unable to fill the vacant positions due to a hiring freeze and the infrequency of the laboratory assistant examinations offered by the state. Currently, DFG is offering approximately one laboratory assistant examination a year.

Governor's Budget. The Governor's Budget proposes \$185,000 in reimbursement authority and three new positions for the Department of Fish and Game to increase the capacity of DFG's laboratories for testing samples from the Bay-Delta.

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

5. CALFED Ecosystem Restoration Program Implementation

Background. The CALFED Ecosystem Restoration Program (ERP) aims to:

- Maintain, improve, and increase aquatic and terrestrial habitats and improve ecological functions in the Bay-Delta to support sustainable populations of diverse and valuable plant and animal species.
- Achieve recovery of at-risk species dependent on the Delta and Suisun Bay, and support the recovery of at-risk species in San Francisco Bay, and in the watershed above the estuary.
- Restore ecological processes associated with stream flow, stream channels, watersheds, productivity, and floodplains.

Since 2001 the Department of Fish and Game has been working on the ERP goals. Over the last seven years the ERP has funded restoration projects ranging from planning and local watershed stewardship programs to research, education, and physical habitat restoration. As of June 2005, the ERP had granted funding to 460 projects for approximately \$540 million.

Governor's Budget. The Governor's Budget proposes \$115 million in Proposition 84 bond funds to be expended through 2012-13. The funds would be used for 40.5 existing positions and local assistance grants. The funds are requested through the Department of Fish and Game budget.

Staff Analysis. The CALFED Delta Vision will be completed in December 2008, and will set a new direction for the CALFED program and outline new program goals and strategies. However, the proposed program funding in this item would be for six years. The Legislature would have very limited input on funding the ERP in the new plan that would go into effect after December 2008. CALFED would have to send an updated plan to the Joint Legislative Budget Committee prior to expending funds after the release of the Delta Vision, but that updated plan would be reviewed by only several members of the Legislature. In order to ensure proper Legislative oversight, funding for the ERP should not be provided beyond the completion date for the Delta Vision.

In addition to the timing of a new CALFED strategic plan, the funds requested for the first year include \$5 million for the Franks Tract project implementation. However, the Environmental Impact Report (EIR) for the Franks Tract project is not yet complete, and the Department of Water Resources estimates that it will take approximately one year to complete the EIR.

Staff Recommendation. Due to direction from the Budget Chair to hold all November 2006 voter approved bond funds open until policy committees hold oversight hearings, staff recommends the Subcommittee hold this item open.

6. CALFED Ecosystem Restoration Program – Central Valley HCP/NCCP Development

Background. In 1991, the Legislature passed the Natural Community Conservation Planning Act. The Act provided for a regional planning process focused on protecting biological communities rather than single species. The Act instituted broad based planning to accommodate conflicting demands for wildlife conservation and urban development. The plans developed under the Act are known as Natural Community Conservation Plans (NCCP).

The NCCPs require preparers to go beyond State and federal requirements for mitigation of impacts by requiring contributions to the recovery of threatened and endangered

species and their habitat. Essentially, these plans are regulatory tools for complying with the Endangered Species Act.

Proposition 84, Chapter 5, Section 75050 (a) provides up to \$20 million for creation of a CALFED Bay-Delta Program NCCP. The 3.5 percent that the Secretary for Resources is requesting across the entire Proposition 84 bond is not subtracted from this request.

Governor's Budget. The Governor's Budget proposes \$20 million in Proposition 84 bond funds for the Department of Fish and Game for program delivery, projects, and bond costs, as well as 16 existing positions. The funds would be expended over six years with \$1,731,000 planned for 2007-08.

Questions.

1. If the contract with Department of Water Resources runs through December 2007, why should the positions be fully funded for year one through Department of Fish and Game?
2. How will these NCCPs be linked to the 100-Year Delta Vision?

LAO Recommendation. The LAO finds that the NCCP studies benefit Delta water exporters, but that the studies are paid for by state taxes. The LAO finds that the development and implementation of an NCCP allows project proponents (in this case, Delta water exporters relying on Delta pumps for water deliveries) to "take" (incidentally harm) endangered species, provided that the overall health of the ecosystem is protected. During the 2006-07 budget hearings, the administration indicated that water users would pay for a Delta NCCP. The LAO recommends the Legislature deny the budget request since water user contributions are a more appropriate funding source.

Staff Recommendation. Due to direction from the Budget Chair to hold all November 2006 voter approved bond funds open until policy committees hold oversight hearings, staff recommends the Subcommittee hold this item open.

7. Delta Water Quality Program

Background. The San Joaquin River and the Sacramento River are the primary sources of fresh-water flows in the Delta. Since the 1940s, salt and boron levels in the Lower San Joaquin River have increased significantly. This water quality impairment has occurred mostly because of large-scale water development projects for beneficial uses on the San Joaquin River and its tributaries. Construction and operation of dams on the San Joaquin River has severely diminished flows in the San Joaquin River. Water quality in the San Joaquin River and Delta has been identified as a severe problem since the 1990s.

The objective of the Delta Water Quality Program is to reduce salt loads, dissolved organic carbon, pesticides, pathogens, harmful trace elements and other pollutants in the Delta water. The Department of Water Resources intends to improve Delta water quality by administering grants for projects that are cost-shared by local agencies that:

- Significantly reduce or eliminate discharges of agricultural surface and subsurface drainage water from the west side of the San Joaquin Valley in order to reduce pollutants to the San Joaquin River and the Delta.
- Eliminate discharges of bromide, dissolved organic carbon, salt, pesticides, and pathogens from discharges to the Sacramento River.
- Reduce salinity or other pollutants at agricultural and drinking water intakes by implementing projects at Franks Tract or other locations in the Delta.
- Implement project identified in the June 2005 Delta Region Drinking Water Quality Management Plan.

Proposition 84, Chapter 2, Section 75029, provides \$130 million for grants to implement Delta water quality improvement projects that protect drinking water supplies.

Governor's Budget. The Governor's Budget proposes \$125,450,000, over 5 years, (\$25,086,000 in 2007-08) for 6.8 positions and three limited-term positions to administer and fund projects to improve water quality in the San Joaquin River and Sacramento River Delta. These funds are requested through the Department of Water Resources.

Staff Recommendation. Due to direction from the Budget Chair to hold all November 2006 voter approved bond funds open until policy committees hold oversight hearings, staff recommends the Subcommittee hold this item open.

8. CALFED Surface Storage Program

Background. The CALFED Record of Decision (ROD) identifies surface storage as an objective and specifies five potential surface storage projects. These projects are North-of-the-Delta Offstream Storage, Los Vaqueros Reservoir Expansion, Upper San Joaquin River Basin Storage Investigation, Shasta Lake Enlargement, and In-Delta Storage. The CALFED Storage Program is intended to improve water supply reliability by capturing water during wet years and releasing it into the rivers in dry years.

To date, CALFED has spent about \$118 million from bond funds and General Fund for surface water storage studies. Proposition 50 (Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002) provided \$50 million in general obligation bond funds for surface water storage planning and feasibility studies. Approximately \$46 million of the available Proposition 50 bond funds has been expended so far. In addition to the bond fund expenditures, since 2000-01 the Legislature has appropriated General Fund for the Integrated Storage Investigation Program.

The current schedule for completing the feasibility studies and environmental documentation for the Los Vaqueros Reservoir Expansion, the Upper San Joaquin River Storage, and North-of-the-Delta Offstream Storage is between Fall 2008 and Summer 2009, if continued funding is received.

Once the proposed feasibility studies are complete, the program will lead to capital outlay projects already included in the Department of Water Resources 5-Year Capital Outlay Plan. If a capital outlay project proceeds to final design and construction, the local water agencies will cost share in the project's capital outlay costs.

Governor's Budget. The Governor's Budget proposes \$3.76 million in Proposition 50 bond funds to support 20.7 existing personnel years to continue feasibility studies and environmental documentation for three potential surface storage projects. The use of the funds would be as follows:

- \$492,000 for Common Assumptions – continue engineering feasibility studies and environmental studies and documentation.
- \$1,228,000 for North-of-the-Delta Offstream Storage – continue the feasibility study for the Sites Reservoir.
- \$1,000,000 for Los Vaqueros Reservoir Expansion – continue environmental review and engineering and economic feasibility studies.
- \$1,000,000 for Upper San Joaquin River Storage – enlarge Millerton Lake at Friant Dam.

This money is being requested through the Department of Water Resources. No new positions are being requested.

Questions.

1. Can CALFED complete these studies with existing funds? If not, why not?
2. Surface water storage studies have been funded since 2000-01 and already \$118 million has been spent on these studies. So far, what has been produced? What projects have been completed? How far along are these studies? When is the anticipated completion date?
3. The CALFED Integrated Storage Investigations were designed to investigate and implement surface and groundwater storage as a tool for improving water supply reliability. How much of the CALFED funds for water storage have been used to study groundwater storage? What have been the main findings of those studies?
4. What will be the anticipated cost of the projects promoted by these studies?
5. If the studies for the surface storage projects to be constructed are still being funded, why are these projects already in the Department of Water Resources 5-Year Capital Outlay Plan?

LAO Recommendation. The LAO finds that the CALFED surface storage program has reached a point where these feasibility studies cannot practically move forward unless non-state entities – parties who would benefit from the projects being studied – step up to the plate and share in the costs of studying and developing these projects. LAO recommends the Legislature deny the budget request for surface storage studies.

Staff Recommendation. Staff recommends the Subcommittee hold this item open so that the department can adequately address questions raised by the Subcommittee.

9. CALFED Ecosystem Restoration Program – Bay-Delta Conservation Planning Process

Background. The CALFED Ecosystem Restoration Program calls for the development of a Bay-Delta Conservation Plan (BDCP). The BDCP would support the implementation of near-term water supply, water quality, ecosystem, and levee actions. The BDCP restoration plans, conservation strategies, and recovery actions will focus on State and federally listed pelagic and anadromous species that are impacted by covered activities. The BDCP would strive to:

- Protect and conserve covered species on a regional scale
- Provide long-term assurances related to the operation of water and power-related projects and associated activities of the State Water Project and other utilities
- Create regulatory benefits for water users, define the proportional share of the State Water Project towards mitigation and conservation goals
- Provide implementation opportunities for the California Endangered Species Act and the federal Endangered Species Act.

In December 2005, negotiations on a Statement of Principles were completed by State and federal agencies, water users, power interests, Delta interests, and others. The Statement of Principles proposes to provide \$60 million in new and existing funds for the BDCP, and other large CALFED plans and studies.

Governor's Budget. The Governor's Budget proposes authority for two new positions to the Department of Water Resources to work on the Bay-Delta Conservation Plan. The positions would cost \$151,000 in salary, wages, and benefits. The funds used would be State Water Project funds, which are off budget.

These two new positions would allow a more condensed schedule for the Bay-Delta Conservation Plan. With the new positions, completion of the project would be anticipated for FY 2010-11.

Questions.

1. How does the Bay-Delta Conservation Plan interface with other plans?

Staff Recommendation. Staff recommends the Subcommittee hold the item open.

10. CALFED Fish Passage Improvement Program

Background. The CALFED August 2000 Record of Decision (ROD) outlines fish passage goals. The Fish Passage Improvement Program will continue to study and evaluate fish passage and fish screen issues with respect to the development and

implementation of the ERP regional restoration plans, Habitat Conservation Plans, and Natural Communities Conservation Plans.

Governor's Budget. The Governor's Budget proposes \$1.2 million in Proposition 50 bond funds for 7.6 existing positions to continue the management, administration, and implementation of the CALFED Fish Passage Improvement Program. This money is being requested through the Department of Water Resources.

Questions.

1. How many of the fish passage goals outlined in the CALFED 2000 Record of Decision has CALFED achieved so far?

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

11. CALFED Conveyance and Water Quality Program Projects

Background. The goal of the CALFED Water Quality Program is to advance efforts to provide safe, reliable, and affordable drinking water to the millions of Californians who receive water from the Delta watershed. The program strives to improve source water quality, water management, and water treatment. The program and its initial activities are described in the CALFED Record of Decision. Currently, the California Bay-Delta Public Advisory Drinking Water Subcommittee guides implementation of the program.

The fish Collection, Handling, Transportation, and Release (CHTR) evaluation program is a multi-year study to evaluate the impacts to Delta smelt of the processes at the State Water Project and Central Valley Project pumping plants of collecting, handling, transporting, and releasing salvaged fish. These fish protection improvements may be realized, in part, through operational and capital outlay changes at the existing facilities. The CHTR study will develop alternatives that can meet engineering and operational requirements of the pumping plants with minimal impacts to the surrounding Delta environment.

The Department of Water Resources is still working on the Environmental Impact Report for the Franks Tract project. Preliminary feasibility studies suggest that modifications to the Franks Tract by restoring levees and installing tidal gates could reduce salinity in the central and south Delta.

Governor's Budget. The Governor's Budget proposes \$5,875,000 in Proposition 13 and Proposition 50 bond funds for one existing position and two new positions. There is also one off-budget State Water Project funded position. The request breaks down as follows:

- \$1,750,000 in Proposition 13 general obligation bond funds to support evaluation of fish facility improvement alternatives at intake facilities.
- \$4,125,000 in Proposition 50 general obligation bond funds for the Franks Tract Project.
- One new position costing \$107,000 with State Water Project Funds (off budget) for the Franks Tract Project.

This money is being requested through the Department of Water Resources.

Questions.

- How does CALFED measure water quality improvement?
- What progress has been made on water quality improvement in the last 10 years?

Staff Recommendation. Staff recommends the Subcommittee approve the budget proposal.

12. South Delta Improvement Program

Background. The South Delta Improvement Program aims to regulate water levels in the San Joaquin River. The proposed project consists of permanent operable gates at the Middle River, Old River near Tracy, Grantline Canal, and Old River near the San Joaquin River. The program is designed to improve conditions for the San Joaquin salmon by reducing their movement into the south Delta via Old River, maintain adequate water levels and through water circulation, quality for agricultural diversions in the south Delta, and increase the SWP operational flexibility by raising the Delta export limit.

The National Marine Fisheries Service on January 11, 2007 denied the State of California permits for the four South Delta operable gates. The justification for denying the permits was that the state had not comprehensive plan for the Delta, and a piecemeal approach to ecosystem management would not be permitted. The loss of the South Delta adjustable dams permit means that in order to maintain water quality less water can be pumped out of the Delta. The Delta supplies water to approximately 23 million people.

The total project cost is estimated as \$50.25 million.

Governor's Budget. The Governor's Budget proposes \$31.4 million in bond funds for the working drawings and Phase I construction of water gates on the San Joaquin River. The funds would be:

- \$14,440,000 in Proposition 13 bond funds for working drawings.
- \$16,960,000 in Proposition 50 bond funds for Phase I construction.

LAO Recommendation. The LAO recommends the Legislature deny the budget request for three reasons:

1. **Missing Report** – The 2006-07 *Budget Act* appropriated \$41.6 million in bond funds for the South Delta Improvement Program but included language prohibiting the expenditure of the funds until the Secretary of Resources submitted a specified report to the Legislature. The report was supposed to include actions that the Secretary will take, other than study, to stabilize the ecosystem in the Delta and to address an identified pelagic organism decline (POD). The intent of the language was to put on hold the development of the South Delta Improvement Program until the impacts of pumping from the Delta on POD could be addressed. The report has not yet been submitted.
2. **Lack of Cost-Sharing** – The cost-sharing agreements with the federal government and the State Water Project contractors who benefit directly from the program have not been secured. The budget documentation submitted to the Legislature states that such cost sharing is the “preferred” way to fund the program, and that it would be “unacceptable” for the state to be the sole funding entity. However, the department has not received funding commitments from either the federal government or State Water Project contractors.
3. **Denied Permit** – The federal Fish and Wildlife Service recently put on hold its permitting for the South Delta Improvement Project, citing problems with declines in fish populations in the South Delta area. This creates substantial uncertainty as to whether the project can proceed.

Staff Comments. The \$41.6 million appropriated in 2006-07 for the South Delta Improvement Project is unexpended at this point due to the tardiness of the required report. Since these funds will be available for expenditure once the report is submitted, the department has indicated that it will have sufficient funds to continue with the South Delta Improvement Project in 2007-08 even if the Legislature does not appropriate new funds for budget year.

Questions.

1. What is the department doing to secure a permit for the South Delta Improvement Project?
2. With \$41.6 million in unexpended funds, when will the department complete the preliminary plans for the project? Will the department have sufficient time to move on to construction during 2007-08?

Staff Recommendation. Staff recommends the Subcommittee reject the budget proposal.